UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,381	02/23/2005	Timothy S. Stevens	36-1887	3945

23117 7590 02/16/2011

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
SMITH, GARRETT A	
ART UNIT	PAPER NUMBER
2168	
MAIL DATE	DELIVERY MODE
02/16/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/525,381
Filing Date: February 23, 2005
Appellant(s): STEVENS ET AL.

Raymond Y. Mah (Reg. No. 41,426)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 20 December 2010 appealing from the Office action mailed 19 April 2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 22 – 33 are pending are rejected under 35 USC 103(a).

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The Examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

5,584,006	Reber	12-1996
5,619,636	Sweat et al.	4-1997

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims **22 – 33** are rejected under 35 U.S.C. 103(a) as being unpatentable over Reber et al (US Patent 5,584,006; patented 10 December 1996) in view of Sweat et al (US Patent 5,619,636; patented 8 April 1997).

In regard to **claim 22**, Reber et al teaches a method of automatically composing a media article, the method comprising:

iteratively finding each section and executing any query in that section to return a selection of media objects each of which is associated with a corresponding media element and comprises digital metadata about its respective media element (*[col 11, lines 39 – 41] the table of relations is analyzed by the application continuously to find equivalent media data, i.e. media data that can be part of the same time sequence from the same or different sources and arranges media data by changing sources as well as adding additional pieces of media data in accordance to the results of the analysis*); and

analyzing the digital metadata of the selected media objects, which digital metadata (*[col 3, lines 52 – 54], the table of relations links the linear media data and any digitized media data*) includes:

> related media object identity data identifying a related media object, the media object containing the related media object identity data and the related media object being referred to as related media objects, and relationship data which indicates the type of relationship between what is represented by the respective media elements corresponding to the related media objects (*a table of*

relations between media objects, see Figure 2 and thus must teach the identity of each of the related object as well (otherwise the data is completely useless));

wherein the method further comprises, arranging the media elements associated with the selected media objects, or identifiers thereof, in a media article in dependence upon the type of relationship of the related media objects forming some or all of the selected media, or identifiers thereof, as determined by the metadata analysis (*[col 11, lines 39 – 41] the table of relations is analyzed by the application continuously to find equivalent media data, i.e. media data that can be part of the same time sequence from the same or different sources and arranges media data by changing sources as well as adding additional pieces of media data in accordance to the results of the analysis*).

Sweat et al further teaches said one or more media element selection criteria comprise a set of template data, each of said sets of template data listing a plurality of slots to be filled ([col 7, lines 12-18] palette is a template with a number of slots), and, for each slot, one or more associated requirements of media elements for filling said slot ([col 7, lines 12-18] user query sets criteria for filling the slot on the palette); and said one or more processors are further arranged in operation to provide said subset by, for each of said slots, retrieving one or more identifiers of media elements whose metadata accords with said one or more requirements for said slots ([col 7, lines 12-18] fully constructed palette can be saved and used). It would have been obvious to a person of ordinary skill in the art at the time of invention to use an object-oriented database of Sweat et al with the apparatus of Reber et al because it would allow for greater compatibility, modularity and easy of use for a user.

In regard to **claim 23**, Reber et al teaches a method according to claim 22 further comprising generating said related media object identity data and said relationship data (*[col 10, lines 36 - 38] relational information pertinent to the list of source identifiers is added to a list of relational information i.e. generating relationship data, [col 10, lines 46-47] any new source identifiers are added to the source list i.e. generating identity data*).

In regard to **claim 24**, Reber et al teaches a method according to claim 22 wherein said metadata of each media object further comprises content data indicating what is represented by the media object's corresponding media element (*[col 11, lines 5 – 7]; a time sequence that media data covers is stored in the table of relations as is shows equivalence*), and

wherein said step of iteratively finding and executing queries comprises selecting, from a plurality of media elements, one or more media elements in dependence upon said content data (*[col 11, 34-38 and col 11, lines 43 - 47]; the application selections from set of media data the available and most complete media data based on the time sequence data*).

In regard to **claim 25**, Reber et al teaches a method according to claim 22 wherein said arranging step arranges said media elements so as to determine the order in which the user sees or hears what is represented by the selected media elements (*[col 11, lines 41 – 49] the relationship between the two sets of media data is the equivalence of the media data including data on how the equivalent media overlap, what sequences overlap and their locations stored in the table of relationships; [col 11,*

42 - 43] application arranges the media data in a time sequence and switches in and out media on the fly to keep what a user sees and hears in sequence).

In regard to **claim 26**, Reber et al. teaches a method according to claim 22 in which said media elements contain video data (*[col 1, lines 17-19]*).

In regard to **claim 27**, Reber et al. teaches a media article composition apparatus comprising:

one or more memory devices storing, for each of a plurality of media elements, metadata including:

related media object identity data identifying a related media object, the media object containing the related media object identity data and the related media object being referred to as related media objects, and relationship data which indicates the type of relationship between what is represented by the respective media elements corresponding to the related media objects (*a table of relations between media objects, see Figure 2 and thus must teach the identity of each of the related object as well (otherwise the data is completely useless)*);

analyzing the metadata of the selected media objects (*[col 3, lines 52 – 54], the table of relations links the linear media data and any digitized media data*); and,

in the event that the selected media objects include related media objects, arranging the media elements associated with the selected media objects, or identifiers thereof, in a media article in dependence upon the type of relationship of the related media objects forming some or all of the selected media, or identifiers thereof, as determined by the metadata analysis (*[col 11, lines 39 – 41] the table of relations is*

analyzed by the application continuously to find equivalent media data, i.e. media data that can be part of the same time sequence from the same or different sources and arranges media data by changing sources as well as adding additional pieces of media data in accordance to the results of the analysis).

Sweat et al further teaches said one or more media element selection criteria comprise a set of template data, each of said sets of template data listing a plurality of slots to be filled ([col 7, lines 12-18] palette is a template with a number of slots), and, for each slot, one or more associated requirements of media elements for filling said slot ([col 7, lines 12-18] user query sets criteria for filling the slot on the palette); and said one or more processors are further arranged in operation to provide said subset by, for each of said slots, retrieving one or more identifiers of media elements whose metadata accords with said one or more requirements for said slots ([col 7, lines 12-18] fully constructed palette can be saved and used). It would have been obvious to a person of ordinary skill in the art at the time of invention to use an object-oriented database of Sweat et al with the apparatus of Reber et al because it would allow for greater compatibility, modularity and easy of use for a user.

In regard to **claim 28**, Reber et al. teaches an apparatus according to claim 27 in which said relationship data indicates a causal type of relationship between what is represented by one media element and what is represented by the related media element (*a table of relations between media objects, see Figure 2 and thus must teach the identity of each of the related object as well (otherwise the data is completely useless)*).

In regard to **claim 29**, Reber et al. teaches an apparatus according to claim 27 wherein said one or more processors are further operable to provide a user with an interface enabling the user to enter said relationship data (*Figure 1*).

In regard to **claim 30**, Reber et al. teaches an apparatus according to claim 27 wherein: said metadata is stored in a database (*Figure 2; data is stored in a table in memory*); and said one or more processors are further operable to query said database to obtain identifiers of media elements whose associated metadata meets one or more conditions specified in said query (*[col 11, lines 39 – 41] the table of relations is analyzed by the application continuously to find equivalent media data, i.e. media data that can be part of the same time sequence from the same or different sources and arranges media data by changing sources as well as adding additional pieces of media data in accordance to the results of the analysis*).

In regard to **claim 31**, Reber et al teaches the invention as substantially claimed. Reber et al does not explicitly teach the use of an object-oriented database. However, Sweat et al teaches said database comprises an object-oriented database and metadata for each set of stored media data is stored as an object in said object-oriented database (*[col 3, lines 54-57]*). It would have been obvious to a person of ordinary skill in the art at the time of invention to use an object-oriented database of Sweat et al with the apparatus of Reber et al because it would allow for greater compatibility, modularity and easy of use for a user.

In regard to **claim 32**, Reber et al. teaches an apparatus according to claim 27 further comprising a content store storing a plurality of media elements, said metadata

for each media element including a pointer to the location of said media element in said content store (*[col 11, lines 39 – 41] the table of relations is analyzed by the application continuously to find equivalent media data, i.e. media data that can be part of the same time sequence from the same or different sources and arranges media data by changing sources as well as adding additional pieces of media data in accordance to the results of the analysis*)..

In regard to **claim 33**, Sweat et al further teaches said one or more media element selection criteria comprise a set of template data, each of said sets of template data listing a plurality of slots to be filled (*[col 7, lines 12-18] palette is a template with a number of slots*), and, for each slot, one or more associated requirements of media elements for filling said slot (*[col 7, lines 12-18] user query sets criteria for filling the slot on the palette*); and said one or more processors are further arranged in operation to provide said subset by, for each of said slots, retrieving one or more identifiers of media elements whose metadata accords with said one or more requirements for said slots (*[col 7, lines 12-18] fully constructed palette can be saved and used*). It would have been obvious to a person of ordinary skill in the art at the time of invention to use an object-oriented database of Sweat et al with the apparatus of Reber et al because it would allow for greater compatibility, modularity and easy of use for a user.

(10) Response to Argument

Appellant argues that Reber in view of Sweat fails disclose the claimed invention of claims 22 – 33. The Examiner first will discuss a few claim terms that are present in the claims and require interpretation. As the Specification does not give a clear picture

as to what these particular terms encompass, the Examiner will be using a broadest reasonable interpretation as viewed by a person of ordinary skill in the art at the time of invention. The terms "media object" and "media element" seem to be used interchangeably in the claim language. However, a "media object" is interpreted to be a container-like computer-programmed construction which can hold other objects such as the claimed "media elements". "Media elements" are the segments, pieces or chucks of media content such as video, audio, text or such content. Sweat has a discussion of object-element structures in col 4, lines 58 – 67 and col 5, lines 1 – 15. Further, the term "query" is an extremely broad element which can include any request for a particular element, object or module. The claim does not contain (or require) any search engine or equivalent searching program that requires a certain format or elements for input. Thus, a broadest reasonable interpretation can be that the "query" is a request for one or more objects (media objects). Appellant's claims have no more specific requirements for a "query".

Appellant argues (on pages 11 – 12) that Reber fails to use "templates". The claim language pertaining to "templates" in claim 22 is in the preamble of the claim. While the Examiner has interpreted that some meaning from the preamble (namely the requirement that the template has a plurality of "sections"), the claim does not describe fully what a template is nor does a description or language exist that the sections have any relation the "composition of a media article". While there may be a "query" in a particular section of the template, the "desired characteristics" are not used by any step in the claim. Further, the query may or may not actually be required by the claim

language because of the limitation "a template ... having a plurality of sections, at least one of which contains a query" occurs in the claim's preamble. However, for the sake of compact prosecution, the Examiner treated the claim as having at least one "query" or request in at least one section of the template.

As for Appellant's argument, the Examiner did not assert that Reber taught the use of templates. Appellant appears to be arguing against the references individually. Appellant cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The Examiner relied on Sweat to teach the template feature. As for the query, the Examiner maintains that Reber provides for the construction of media articles which have metadata and links to elements of the media (*[col 3, lines 52 – 54], the table of relations links the linear media data and any digitized media data*). While Appellant may have intended the "query" to be a more substantial request such as with SQL-based or XML-based queries, this subject matter is not in the claim language

Appellant argues that the "palettes" in Sweat fail to teach the query and the template features of the claimed invention. The Examiner again notes that Appellant appears to be against the references individually. Further, the Examiner notes that missing the word "template" from a reference does not mean the reference does not teach the *concept* of a template. The module palette tool of Sweat (see col 6, lines 63 – 67 and col 7, lines 1 – 26) provide a means for a user to generate custom palettes which custom modules embedded in the palette via a query system. The custom

palette can be populated based on a query automatically to save time on individually dragging and dropping an icon onto the palette and has a multitude of sections. Thus, this is the essence of a "template" by providing a blueprint for the creation of an object (the custom palette). The Examiner further notes that Sweat also discusses the construction of objects and "containers" which may also satisfy the "template" requirement of the claims (col 4, lines 58 – 67 and col 5, lines 1 – 15). The Examiner notes that these modules and containers can plug in to or interface with the palette as well.

Appellant also makes the argument that Reber in view of Sweat requires the user to form the media article in a non-automatic manner. The Examiner is perplexed by this argument as both Reber and Sweat are directed toward computerized programs and the hardware to operate said programs. Thus, any activity that requires the manipulation of digital data in the computer system would be considered by a person of ordinary skill in the art at the time of invention to be "automatic" because the much activity (even simple actions such a pointing and clicking) is performed by a machine (i.e. the hardware – processor and memory of the computer). Thus, the Examiner maintains that Reber in view of Sweat fully teaches the invention as claimed.

Appellant further argues that analyzing step requires the analysis of the "related media object data" and "relationship data". The Examiner disagrees. The construction of the claim does not require the specific analysis of the "related media object data" and "relationship data". The merely requires that the digital metadata include "related media

object data" and "relationship data". The data does not specifically need to be used in the analysis step.

Thus for the above reasons, the Examiner believes the rejection should be maintained for claims 22 – 33.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the Examiner in the Related Appeals and Interferences section of this Examiner's Answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Garrett Smith/

Garrett Smith
Patent Examiner
Art Unit 2168

Conferees:

/Tim T. Vo/

Supervisory Patent Examiner, Art Unit 2168

/Charles Rones/

Supervisory Patent Examiner, Art Unit 2164

Charles Rones